IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3272 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GSRTC

Versus

VASHRAMBHAI B JAKHUWADIA

Appearance:

1. Special Civil Application No. 3272 of 2001

MR ASHISH H SHAH for Petitioner No. 1

MR DP KINARIWALA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 01/07/2004

ORAL JUDGEMENT

The petitioner - Corporation, by way of the present petition, has challenged the judgment and award of the Industrial Tribunal, Ahmedabad in Reference (IT) No.175/1998 dated 20th November, 2000, by which the Industrial Tribunal allowed the Reference partly and set aside the order of the petitioner - Corporation dated 5th September, 1994, whereby, the respondent was placed in the minimum pay-scale and the penalty was substituted by imposing a penalty of stoppage of two increments with future effect. It was also directed by the Industrial Tribunal that the respondent - workman will not be entitled for any arrears in view of the substitution order.

2. Mr.A H Shah learned advocate appearing for the petitioner - Corporation has submitted that looking to the award of the Industrial Tribunal that the charge against the respondent has been proved and looking to his past conduct that as many as eighteen defaults were committed, which are on record at Annexure 'B' to the petition, the substitution of penalty by the Industrial Tribunal is not justified and the same is required to be interfered by this Court.

3. Mr.D P Kinariwala learned advocate appearing for the respondent - workman has stated that the respondent has been sufficiently punished, in as much as, a penalty of stoppage of two increments with future effect has been inflicted on him, which shall have a long effect, even at the time of retirement. Moreover, the Industrial Tribunal has also not awarded any arrears since the order was passed in September, 1994 and the penalty was substituted in November, 2000. Therefore, the respondent - workman is deprived of the increments for almost six years and two months. He, therefore, contends that the order of the Industrial Tribunal is just and proper.

4. I have heard the learned Counsel appearing for the parties and have gone through the judgment and award of the Industrial Tribunal. The power exercised by the Industrial Tribunal, substituting the penalty, is just and proper, in view of the fact that the petitioner Corporation itself, even after eighteen defaults has continued the workman in service. Even the petitioner Corporation has not thought it fit to remove the respondent - workman from service. In that view of the matter, the Industrial Tribunal has rightly substituted the penalty and was justified in not granting any arrears to the respondent workman. In that view of the matter, the discretion exercised by the Industrial Tribunal requires no interference.

5. For the foregoing reasons, this petition is dismissed. Rule is discharged with no orders as to costs. Interim relief granted earlier stands vacated.

(K. S. Jhaveri, J.)

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